

# EXHIBIT 57

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE )  
COMMISSION, )  
 )  
Plaintiff, )  
 ) Case No.  
vs. ) 18 Civ. 8175 (ER)  
 )  
BARRY C. HONIG, ROBERT LADD, )  
ELLIOT MAZA, BRIAN KELLER, )  
JOHN H. FORD, GRQ CONSULTANTS, )  
INC. and HS CONTRARIAN )  
INVESTMENTS, LLC, )  
 )  
Defendants. )

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DEPOSITION OF  
HARVEY KESNER  
VIA REMOTE VIDEOCONFERENCE  
MONDAY, AUGUST 8, 2022

Stenographically Reported by:  
Victoria L. Valine, CSR, RMR, CRR, RSA  
California CSR License No. 3036  
Job No. 220808VV

REMOTE APPEARANCES:

FOR PLAINTIFF:

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Also Present: Robert Ladd

(All parties appeared remotely via videoconference.)

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BE IT REMEMBERED, that on Friday, August 8,  
2022, commencing at the hour of 10:01 a.m., Eastern  
Daylight Time, all parties appearing via WebEx  
videoconference, before me, Victoria L. Valine,  
Certified Shorthand Reporter of the State of California,  
appeared:

HARVEY KESNER

called as a witness by the Plaintiff, who, being by me  
remotely sworn, was thereupon examined and interrogated  
as hereinafter set forth.

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1 that was executed in connection with the MGT 2012  
2 representation.

3 Do you recall that?

4 A. Okay. Not -- not specifically, but it  
5 certainly would have been something that I would have  
6 insisted on and the firm would have insisted on --

7 Q. And what --

8 A. -- if Mr. Honig or other people had been  
9 investing. That's normal firm practice. It's not an  
10 outlier.

11 Q. And what was the potential conflict if  
12 Mr. Honig was an investor?

13 A. There's no articulated specific potential  
14 conflict, but there are always, you know, risks of  
15 claims that can arise if someone's investment goes bad  
16 or they're not happy and, you know, that could be --  
17 many people sue over many things with a very low bar and  
18 threshold for those lawsuits.

19 Routine practice at every firm I've been in is  
20 if you're representing an issuer in which you've  
21 previously had a relationship as a representation -- an  
22 investor, you'll get a conflict waiver from both sides.

23 The example I'd give you is if, you know,  
24 Citibank was giving a mortgage to Ms. Brown, and then  
25 later I was representing Ms. Brown in connection with a

1 A. Yes.

2 Q. And, in fact, it represents that you had some  
3 interaction with Deo at NYSE. Does that help refresh  
4 your recollection about Mr. Machado and having some  
5 interactions with him?

6 A. It does not. It may very well be that I was  
7 reviewing an email from him of some sort. It doesn't  
8 really indicate what the activity was. And, again, I  
9 don't even recall the name Deo.

10 Q. All right. So the PIPE part of this  
11 transaction closed before the registered direct portion  
12 of it, didn't it?

13 A. I don't recall.

14 Q. All right. Can you tell us why MGT -- why  
15 you're billing time to MGT?

16 A. I cannot tell you why I was billing time to  
17 MGT other than I spent time on MGT.

18 Q. In other transactions that you worked on where  
19 you were representing Mr. Honig, did you bill your time  
20 on occasion to the issuer?

21 A. Ask that again.

22 Q. On other transactions that you worked on  
23 representing Mr. Honig, did you bill the time that you  
24 spent on those transactions to the issuer?

25 A. If Mr. Honig was my client involved in a

1 sometimes file on behalf of the investors their  
2 beneficial holdings, their forms, as a matter that they  
3 assume the cost of.

4 So without looking at the -- you know, the  
5 other documentation, the purchase agreement for the RD,  
6 or any side letter, I mean I just -- I can't say.

7 I do know that Hudson Bay routinely asks that.  
8 And if they were the genesis of this documentation set,  
9 it's very possible that they have -- the issuer has an  
10 obligation to, you know, assist or at least to help  
11 assist in these filings.

12 Q. Okay. So in the circumstances you're  
13 recounting right there where Hudson Bay has a  
14 contractual obligation with the issuer for the issuer to  
15 file Schedule 13Gs on its behalf, and you carry out that  
16 filing for Hudson Bay and the issuer, whose interests  
17 are you representing when you fill out the Schedule 13G  
18 for Hudson Bay?

19 A. You're pursuing the interest of truth and  
20 accuracy. This is not an advocacy situation. You're  
21 not -- you're not taking a position for anybody. You're  
22 receiving inputs from people, and because the  
23 familiarity with the form, you're putting numbers in a  
24 form and helping people understand the answers to the  
25 questions that represent the instructions to the form.



1 Q. And from your understanding that means that  
2 Kaplowitz representing Ladd and MGT couldn't disclose  
3 confidential matters to someone representing Honig?

4 A. Repeat that.

5 Q. That language means, to you, that Kaplowitz  
6 representing MGT couldn't disclose confidential  
7 communications he learned in that representation to  
8 someone representing Honig?

9 A. Not without the consent of Ladd -- of MGT.  
10 You shouldn't do that.

11 Q. Okay. All right. Did you have any  
12 discussions with Mr. Kaplowitz about any of this  
13 language?

14 A. I don't recall.

15 Q. And do you recall any conversations with  
16 Mr. Ladd about any of this language?

17 A. I had very limited contact with Mr. Ladd.  
18 It's highly unlikely. And this is pro forma  
19 boilerplate, so, you know, you don't usually have many  
20 discussions about this at all. This is the language we  
21 use, that's that.

22 Q. Okay. So looking at the second paragraph of  
23 this conflict waiver, it lists certain investors and it  
24 says,

25 "You specifically acknowledge that we

1 STENOGRAPHIC SHORTHAND REPORTER'S CERTIFICATION

2 - - -

3 I, VICTORIA L. VALINE, CSR NO. 3036, RMR, CRR,  
4 RSA, certify: That the foregoing proceedings were  
5 remotely taken before me via videoconference at the time  
6 herein set forth; at which time the witness was duly  
7 sworn; that a record of the proceedings was made by me  
8 using machine shorthand which was thereafter transcribed  
9 under my direction; and that the transcript is a true  
10 record of the testimony so given.

11 Further, the foregoing pertains to the  
12 original transcript of a deposition in a federal case,  
13 before completion of the proceedings, review of  
14 transcript not requested.

15 The dismantling, unsealing, or unbinding of  
16 the original transcript will render the Stenographer's  
17 Certificate null and void.

18 I further certify that I am not financially  
19 interested in the action, and I am not a relative or  
20 employee of any attorney of the parties, nor of any of  
21 the parties.

22 Dated this 14th day of August, 2022.

23   
24

25 Victoria L. Valine, CSR License #3036